

AMENDED IN ASSEMBLY MAY 19, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1010**

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**Introduced by Assembly Member Furutani**

February 18, 2011

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An act to ~~amend Section 633 of~~ *add Section 633.05 to* the Penal Code, relating to law enforcement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1010, as amended, Furutani. Law enforcement: communications.

Existing law prohibits a variety of electronic eavesdropping, such as wiretapping and electronic recording that is done without a person's permission or knowledge. Existing law provides that violations of these provisions are crimes. Existing law exempts a variety of law enforcement entities from these prohibitions when acting within the scope of their authority.

~~This bill would add to the list of law enforcement entities exempted from these prohibitions;~~ *additionally provide that* a city attorney acting under the authority granted by the district attorney of the county to prosecute misdemeanors, as specified, provided that the authorization is granted prior to January 1, 2012, *would be exempt from certain of these prohibitions, including eavesdropping on or recording confidential communications, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 633.05 is added to the Penal Code, to*  
2     *read:*

3     633.05. (a) *Nothing in Section 632, 632.5, 632.6, or 632.7*  
4     *prohibits a city attorney acting under authority of Section 41803.5*  
5     *of the Government Code, provided that authority is granted prior*  
6     *to January 1, 2012, or any person acting pursuant to the direction*  
7     *of one of those city attorneys acting within the scope of his or her*  
8     *authority, from overhearing or recording any communication that*  
9     *they could lawfully overhear or record.*

10    (b) *Nothing in Section 632, 632.5, 632.6, or 632.7 renders*  
11    *inadmissible any evidence obtained by the above-named persons*  
12    *by means of overhearing or recording any communication that*  
13    *they could lawfully overhear or record.*

14    ~~SECTION 1. Section 633 of the Penal Code is amended to~~  
15    ~~read:~~

16    ~~633. (a) Nothing in Section 631, 632, 632.5, 632.6, or 632.7~~  
17    ~~prohibits the Attorney General, any district attorney, or any~~  
18    ~~assistant, deputy, or investigator of the Attorney General or any~~  
19    ~~district attorney, any officer of the California Highway Patrol, any~~  
20    ~~chief of police, assistant chief of police, or police officer of a city~~  
21    ~~or city and county, any sheriff, undersheriff, or deputy sheriff~~  
22    ~~regularly employed and paid in that capacity by a county, police~~  
23    ~~officer of the County of Los Angeles, a city attorney acting under~~  
24    ~~the authority of Section 41803.5 of the Government Code, provided~~  
25    ~~that authority is granted prior to January 1, 2012, or any person~~  
26    ~~acting pursuant to the direction of one of these law enforcement~~  
27    ~~officers acting within the scope of his or her authority, from~~  
28    ~~overhearing or recording any communication that they could~~  
29    ~~lawfully overhear or record prior to the effective date of this~~  
30    ~~chapter.~~

31    ~~(b) Nothing in Section 631, 632, 632.5, 632.6, or 632.7 renders~~  
32    ~~inadmissible any evidence obtained by the above-named persons~~  
33    ~~by means of overhearing or recording any communication that~~  
34    ~~they could lawfully overhear or record prior to the effective date~~  
35    ~~of this chapter.~~

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